

Appl. No. 09/745,525  
Dated March 16, 2004  
Reply to Office Action of December 22, 2003

Remarks:

Claims 1-46 are pending in this application.

The Examiner has rejected independent claims 1, 32, 33 and 40 under 35 U.S.C. 102(b) as being anticipated by US Patent No. 4,669,113 to Ash et al. (hereinafter "Ash"). The applicant respectfully disagrees.

In brief, the method of claim 1 requires "receiving an indication of a utilization of a trunk" and taking an action "if said utilization of said trunk exceeds a first threshold" (emphasis added). It should be noted that the method of claim 1 is performed at a switch, which has local information about the utilization of a particular trunk. In contrast, the adaptation of a network to various traffic patterns is performed in Ash at an integrated network controller 100 that receives network information from switches in the network 411. Such network information includes a number of idle trunks in the network 411, a number of idle trunks in each link 11, 12, and a blocking level experienced by each originating switch - terminating switch (OS-TS) pair.

The Examiner has indicated that the process, in Ash, of reserving trunks on a link, which process is based on traffic intensity between the switches directly connected to the link and which process is performed only when a high blocking indicator exceeds a threshold reads on "if said utilization of said trunk exceeds a first threshold, initializing a first degree of adaptation". However, it is respectfully submitted that traffic intensity between the switches is measured as the number of idle trunks in the link (col. 13, lines 42-45) and not utilization of a single link, as required by claim 1. It is further submitted that the high blocking indicator (i.e., the value that is compared to a threshold) is related to a number of calls that are blocked over a time interval for an OS-TS pair (col. 13, lines 12-21). As such, the high blocking indicator is not a measure of the utilization of a single trunk as is required by claim 1 to be compared to a threshold. As far as the integrated network controller 100 of Ash is concerned, a trunk is either "in service" or idle. There is no disclosure of the measuring of the utilization of a single trunk.

It is submitted, then, that Ash does not disclose all of the elements of claim 1.

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Furthermore, as claims 32 and 33 cite a path administrator for carrying out the method of claim 1 and claim 40 cites a computer readable medium containing instructions allowing a processor to carry out the method of claim 1, it is submitted that Ash does not disclose all of the elements of claims 32, 33 or 40. Without such a disclosure, Ash cannot anticipate independent claims 1, 32, 33 and 40. Withdrawal of the rejection of claims 1, 32, 33 and 40, and claims 2-10, 14, 15, 23-25, 30, 31, 34-37, 41 and 42 dependent thereon, in view of Ash is therefore respectfully requested.

The Examiner has rejected claims 11-13, 38 and 43-46 under 35 U.S.C. 103(a) as being unpatentable over Ash in view of U.S. Patent No. 6,377,677 to Ackerley et al. (hereinafter "Ackerley"). The applicant respectfully disagrees.

In order to establish that any claim is obvious, the Examiner must identify 1) all of the claimed elements in the prior art; 2) a reason or motivation to modify or combine these elements to arrive at the claimed invention; and 3) a reasonably likelihood of success. (See M.P.E.P. 2142)

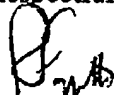
As outlined hereinbefore, it is submitted that Ash does not disclose all the elements of claims 1, 33 and 40 on which claims 11-13, 38 and 43-46 depend, either directly or indirectly. The Examiner appears to merely cite Ackerley to illustrate that sending a congestion notification to a source of a misbehaved connection would have been obvious to one skilled in the art. However, the lack of disclosure of all the elements of claims 1, 33 and 40 means that neither Ash, nor Ackerley, nor a combination of Ash and Ackerley can render claims 11-13, 38 and 43-46 obvious. Withdrawal of the rejection of claims 11-13, 38 and 43-46 over Ash in view of Ackerley is therefore respectfully requested.

The Examiner has rejected claims 16-22, 26-29 and 39 under 35 U.S.C. 103(a) as being unpatentable over Ash. As outlined hereinbefore, it is submitted that Ash does not disclose all the elements of claims 1, 33 and 40 on which claims 16-22, 26-29 and 39 depend, either directly or indirectly. Without such a disclosure, Ash cannot render claims 16-22, 26-29 and 39 obvious. Withdrawal of the rejection of claims 16-22, 26-29 and 39 in view of Ash is therefore respectfully requested.

Appl. No. 09/745,525  
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Applicant respectfully requests that a timely Notice of Allowance be issued in the case.

Respectfully submitted,



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